

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE**

**TRACY LYNN FULTON,**

**Plaintiff,**

**v.**

**WEST COAST LIFE INSURANCE  
COMPANY,**

**Defendant.**

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**Civil Action Number:**

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §1441 and §1446, and other applicable rule or law, Defendant West Coast Life Insurance Company (“West Coast Life”) hereby files this Notice of Removal of this case from the Circuit Court of Shelby County, Tennessee, Case No. CT-005664-08, where it is currently pending, to the United States District Court for the Western District of Tennessee. This cause is removable pursuant to 28 U.S.C. § 1332, in that there is complete diversity of citizenship between Plaintiff and the Defendant and the amount of controversy exceeds the sum of \$75,000.00, exclusive of interests and costs. Defendant respectfully shows the Court as follows:

1. Plaintiff Tracy Lynn Fulton instituted a civil action against West Coast Life in the Circuit Court of Shelby County, Tennessee on November 24, 2008. A true and correct copy of all process and pleadings as served upon West Coast Life on December 19, 2008, and which upon information and belief constitute the entire state court record at the time of this Removal, is attached hereto as Exhibit “A” and is incorporated herein by reference.

2. This action could have been originally filed in this Court pursuant to 28 U.S.C. §§ 1332 and 1367, in that there is complete diversity between Plaintiff and the properly named Defendant and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Removal is, therefore, proper under 28 U.S.C. §1441(a).

3. Notice of Removal is filed within thirty (30) days after receipt by any Defendant of the initial pleading on which the aforesaid action is based pursuant to Rule 6(a) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1446(b).

4. The United States District Court for the Western District of Tennessee is the federal judicial district embracing the Circuit Court of Shelby County, Tennessee, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. §§ 81(b)(1) and 1441(a).

#### **DIVERSITY OF CITIZENSHIP**

5. Upon information and belief, Plaintiff Tracy Lynn Fulton is a resident and citizen of Shelby County, Tennessee.

6. Defendant West Coast Life is a corporation organized and existing under the laws of the State of Nebraska, with its principal place of business in San Francisco, California. Pursuant to 28 U.S.C. § 1332(c)(1), West Coast Life is a citizen of Nebraska and California. West Coast Life is not now, and was not at the time of the filing of the petition, a citizen or resident of the State of Tennessee within the meaning of the Acts of Congress relating to the removal of causes of action.

7. Accordingly, there is complete diversity of citizenship between Plaintiff and Defendant.

**AMOUNT IN CONTROVERSY**

8. Plaintiff's Complaint alleges breach of contract and bad faith for West Coast Life's denial of her claim for insurance benefits. As set forth in Paragraphs 2 and 3 following the WHEREFORE clause contained in the Complaint, Plaintiff seeks \$500,000 in compensatory damages from West Coast Life plus punitive damages. Accordingly, the \$75,000 jurisdictional threshold is satisfied in this case.

**MISCELLANEOUS**

9. A copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Shelby County, Tennessee, as provided by law, and written notice is being sent to Plaintiff's counsel.

10. Defendant has not sought similar relief.

11. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

12. The allegations of this Notice are true and correct and within the jurisdiction of the United States District Court for the Western District of Tennessee.

13. If any question arises as to the propriety of this removal, Defendant respectfully requests the opportunity to present a brief and argument in support of its position.

**WHEREFORE, PREMISES CONSIDERED,** Defendant West Coast Life, by and through its counsel, prays that the above action currently pending against it in the Circuit Court of Shelby County, Tennessee, be removed therefrom to this Court.

Respectfully submitted this 14th day of January, 2009.

THOMASON HENDRIX HARVEY JOHNSON  
& MITCHELL, PLLC

/s/ Elizabeth T. Collins

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Company  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon the following counsel of record to this proceeding by placing a copy of same in the United States Mail, properly addressed and postage prepaid this 14th day of January, 2009.

Michael D. Snell  
Brian F. Walthart  
REIVES, RUBENS & MAYTON  
P.O. Box 1359  
West Memphis, Arkansas 72303

/s/Elizabeth T. Collins

Elizabeth T. Collins